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VIA ECF

Hon. Loretta A. Preska
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York

Re: LV v. NYC Dep't of Education, et al., 03 Civ. 9917 (LAP)

Dear Judge Preska:

This office represents Defendants in the above-referenced action. I write in relation to the assertions made by the Plaintiffs in their letter to the Court dated December 21, 2023 (ECF No. 334) and in response to the letter from Special Master David Irwin dated January 26, 2024 (ECF No. 340).

Firstly, Defendants express our gratitude to the Mayor and the Office of Management and Budget ("OMB") for their substantial financial commitment to the New York City Department of Education ("DOE") in compliance with the Court's Order of July 19, 2023 (ECF No. 328). We acknowledge that the allocation of \$25 million for Fiscal Year 2024 and the subsequent \$130 million for Fiscal Years 2025 through 2028 is a significant step towards meeting the Court's mandates.

In addressing the concerns raised by the Special Master and refuting the assertions made by the Plaintiffs, we provide the following updates and clarifications:

1. Obligation 7: The DOE has fulfilled this obligation by identifying a file-sharing process and tool, submitting the deliverable on October 27, 2023, and providing 5 case examples on December 8, 2023, as requested by the Special Master. The Special Master confirmed this obligation as fulfilled on January 3, 2024.

2. Obligation 12: The DOE met the requirement for this obligation, submitting the deliverable on September 14, 2023. After extensive discussions facilitated by the Special Master, final "high priority" categories were agreed upon on December 12, 2023. The Special Master has marked this obligation as fulfilled.

3. Obligation 17: This obligation was determined to be moot by the Special Master on October 17, 2023, as it was subsumed under Obligation 7.

4. Obligation 26: The DOE has actively engaged in fulfilling this obligation, with multiple submissions made based on the Special Master's feedback. The Special Master informed us of the fulfillment of this obligation on December 13, 2023.

5. Obligation 40: Despite budget constraints and a Citywide hiring freeze, the DOE has made significant efforts to comply with this obligation. Following the approval of our New Needs request by OMB, DOE is expediting the recruitment process for the part-time resource. DOE also has submitted an interim staffing plan to the Special Master.

It is important to note that the DOE has worked in a spirit of collaboration with both the Special Master and Plaintiffs' counsel since the Order was issued. Defendants' commitment to transparency and proactive engagement remains steadfast.

We acknowledge, however, the challenges presented by the current environment, which have impacted DOE's ability to fulfill certain obligations as swiftly as desired. The current Citywide hiring and spending freeze could pose a substantial hurdle in hiring key personnel, contracting for necessary services, and procuring essential equipment and technology solutions. These constraints could materially impact the scope and speed of our progress.

We are committed to overcoming these obstacles, however, and will actively engage with the OMB to navigate these challenges. These commitments are held at the highest levels of leadership within DOE, with several cabinet members personally acting to carry out necessary steps. DOE's immediate action plan includes submitting blanket approval requests for all hiring and procurement actions associated with the Court's Order. Defendants' proactive approach aims to expedite processes critical to our compliance with the Court's directives.

Defendants assure the Court of our dedication to fulfilling the Court's directives and enhancing our services for the benefit of New York City's students and families. We appreciate the Court's guidance and oversight in this matter and will continue to engage and collaborate with the Special Master and Plaintiffs.

Respectfully,



Jeffrey S. Dantowitz
Assistant Corporation Counsel

cc: All counsel of record
Special Master Irwin
(via ECF)